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DRAFT 6 January 2006

UNDERSTANDING REGARDING
BIODIVERSITY AND TRADITIONAL KNOWLEDGE

[Date]

The Governments of the Republic of Peru and the United States have reached the following understandings concerning biodiversity and traditional knowledge in connection with the United States of America – Peru Trade Promotion Agreement signed this day:

The Parties recognize the importance of traditional knowledge and biodiversity, as well as the potential contribution of traditional knowledge and biodiversity to cultural, economic, and social development.

The Parties recognize the importance of the following: (1) obtaining informed consent from the appropriate authority prior to accessing genetic resources under the control of such authority; (2) equitably sharing the benefits arising from the use of traditional knowledge and genetic resources; and (3) promoting quality patent examination to ensure the conditions of patentability are satisfied.

The Parties recognize that access to genetic resources or traditional knowledge, as well as the equitable sharing of benefits that may result from use of those resources or that knowledge, can be adequately addressed through contracts that reflect mutually agreed terms between users and providers.

Each Party shall endeavor to seek ways to share information that may have a bearing on the patentability of inventions based on traditional knowledge or genetic resources by providing:

- a) publicly accessible databases that contain relevant information; and
- b) an opportunity to cite, in writing, to the appropriate examining authority prior art that may have a bearing on patentability.

FOR THE GOVERNMENT OF THE REPUBLIC OF PERU:

FOR THE GOVERNMENT OF THE UNITED STATES OF AMERICA: